

HONORABLE RONALD B. LEIGHTON

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

WILLIAM DARYL STUTE, EVA M.  
STUTE (Children), SANDY A. HIPPS-  
STUTE, JACOB W. STUTE,

Plaintiffs,

v.

CITY OF WESTPORT, GRAYS HARBOR  
COUNTY, JEAN A. COTTON,  
ATTORNEY, STATE OF WASHINGTON,

Defendants.

Case No. C06-5453RBL

ORDER

THIS MATTER comes on before the above-entitled Court upon Defendant City of Westport's Motion for Summary Judgment [Dkt. #18].

Having considered the entirety of the records and file herein, the Court rules as follows:

Plaintiffs have again filed suit against the defendants based on events surrounding the dependency proceedings and the defendants' actions leading up to the dependency of plaintiffs William D. Stute and Eva M. Stute's two minor children, Sandy and Jacob. Previously the Court dismissed three cases filed by the Stutes based on the applicable three-year statute of limitations (C04-5123RBL, C04-5254RBL, and C04-5260JKA) and one case by way of stipulation (C04-5243RBL). The four cases were all based upon the same nucleus of operative fact. This case suffers from the same defect, and is also barred by the doctrine of res judicata. *See Headwaters Inc. v. U.S. Forest Service*, 382 F.3d 1025, 1028-29 (9<sup>th</sup> Cir. 2004) (elements of res judicata are (1) identity of claims, (2) final judgment on the merits, and (3) privity between parties).

1 Therefore, Defendant City of Westport's Motion for Summary Judgment [Dkt. #18], Defendant State  
2 of Washington, Attorney General of Washington's Joinder in City of Westport's Motion for Summary  
3 Judgment [Dkt. #21], Defendant Grays Harbor County's Joinder in Defendant City of Westport's Motion for  
4 Summary Judgment [Dkt. #24], and Defendant Jean A. Cotton's Joinder in Defendant City of Westport's  
5 Motion for Summary Judgment [Dkt. #25] are **GRANTED**.

6 The defendants also request attorneys' fees under 42 U.S.C. § 1988. While the Court is sympathetic  
7 to defendants having to expend resources to once again defend against allegations previously dismissed, the  
8 Court **DENIES** defendants' requests for attorneys' fees. The plaintiffs are cautioned however, that any further  
9 attempt to file suit based upon these allegations or to continue to litigate in this case number may result in the  
10 imposition of significant monetary sanctions.

11 All pending motions filed by plaintiffs are **DENIED** and this case is **DISMISSED**.

12 **IT IS SO ORDERED.**

13 The Clerk shall send uncertified copies of this order to all counsel of record, and to any party appearing  
14 pro se.

15 Dated this 20<sup>th</sup> day of October, 2006.

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17   
18 RONALD B. LEIGHTON  
UNITED STATES DISTRICT JUDGE